

**MINUTES**  
**RUSH COUNTY BOARD OF ZONING APPEALS**  
**FEBRUARY 6th, 2014**  
**6:30PM**

**ROLL CALL:**

Larry Copley, Mike Holzback, Lois Hatfield, Sandra Jackson, Gilda Caviness, Kevin Tolloty and Rhea Dawn Buckley.

Absent: David Rogier and Ruth Geise.

**MINUTES:** Motion was made by Lois Hatfield to approve the minutes with an amendment to add the appeal and time frame process as mentioned at the January meeting, seconded by Larry Copley. All voted AYE.

**NEW BUSINESS:**

1. **Election of Officers:** Sandra Jackson made a motion to leave officers as they were, seconded by Lois Hatfield. All voted AYE.

**President:** Mike Holzback

**Vice-President:** Larry Copley

**Secretary:** Kevin Tolloty

**SPECIAL EXCEPTIONS:**

1. Eric Duncan, 8700 N 1000 W, Carthage, is requesting a special exception for a home occupation for gunsmithing, zoned A-3; Agriculture, Regulated Livestock.

**Eric-** All I am doing is fixing, repairing and bluing guns. I am not selling anything extra except the parts that I use. I need to be rezoned for my state license so they know that I am legal. That way I have to follow their rules and regulations by State and US codes. So basically I will have to follow the ATF (Alcohol, Tobacco, Firearms) act.

**Larry-** Are you going to get FFL (Federal Firearms License)?

**Eric-** In order for me to get the FFL, the ordinance has to change. The FFL makes it so I can get the parts. Usually I can do transfers by the code and by the State and everything is in writing. That way they can follow me and check on me at anytime. It's good for four (4) years and as long as there is not a problem, they just keep renewing it. I want to do this the legal way.

**Larry-** All the chemicals that you will use for the bluing, they will have to mandate that under hazardous materials.

**Lois-** Are you going to putting a sign up at the property?

**Eric-** No, not as of right now.

**Larry-** If you ever decide to put a sign up, you will need a permit for that.

**Lois-** What are your business hours?

**Eric-** By appointment only.

**Larry-** What is your closest neighbor?

**Eric-** Probably 300 feet or more.

**Gilda-** So you understand you can't buy and resell guns because it's not allowed under the Home Occupation Exception?

**Eric-** Yes. The only way that I would have one for sale, is if someone brought one into me for repairs and they never paid or picked it up.

**Kevin-** Home Occupation states that it has to be produced on site.

**MOTION:** Larry made a motion to grant Eric Duncan of 8700 N 1000 W, Carthage, a Special Exception for a gunsmithing with the condition that if he decides to put up a sign or if his license would change to become a FFL Dealer, then he must contact the APC office for a permit, seconded by Lois Hatfield. All voted AYE.

#### **AUDIENCE PARTICIPATION:**

My name is Steve Schneider and I am here regarding the dump/relay station. I have contacted the Mayor of Rushville as to why we weren't notified of this and his response to me was that we didn't need to be notified. However, we are within ½ of a mile of that property. I have spent a lot of time on this and the City and County got together about five (5) years ago regarding the zoning. I think Mr. Pavey just does what he wants. This Board is to enforce new rules not make them up as they go. We should be able to have an input on what is going on around us. I would also like to address a conflict of interest in the decision making. Mrs. Geise should have not voted for this because her daughter is an employee of CGS. I don't think it's proper procedure for her to vote on that. Mr. Pavey wants me to negotiate with him but there is no negotiation. There are 100 percent of us out there that does not want this. I have a friend who has tried to talk to the attorney here and he has told me that your Board's attorney has been less than cooperative with him and I don't know what is up with that. It came from his heart that she is trying not to answer his questions. I would also like to say when talking with Mrs. Geise, that she has been counseled with this attorney. I don't know who was present, but it should have been done before this Board. The more I talked to Mrs. Geise the more she based her vote on what the lawyer has told her.

**Gilda-** Just to address that last part, I definitely don't have any opinion on whether or not a project should go forward. I have not had any conversations with any Board member prior to the meeting about the project. I don't know what attorney she spoke to, but it was not me.

**Steve-** Well I apologize then. She said this attorney so I just thought that it was you.

**Kevin-** According to our ordinance, we contact the adjoining property owners, place an ad in the local newspaper at least 10 days before the meeting and also post it on the bulletin board at the Court House.

Several other audience members voiced their opinion against the transfer station because of location, smell, road repairs, trash in their fields and so on.

**Kevin-** The only thing we the BZA (Board of Zoning Appeals) have to do with it is zoning. It's just in the beginning process. There is a lot that has to be done and approved before this will ever happen.

**Larry-** Go online and look at the zoning. This is the first step. There were restrictions put on this decision. They have to go through the Drainage Board and IDEM. The only

alternative is to have the zoning ordinance changed and get it removed from the books. We have to enforce the books.

**Gilda-** Let me clarify the standard of the decision. The public and anyone that receives notice are entitled to come to the meetings. Some are here and some not. All that can be taken into account that is not the standard by which the decision is made on zoning. Whether it is Variances or Special Exceptions. The only piece that the APC and the BZA has interest in is just that limited piece of giving zoning approval so the plan can go to the next step.

**Kevin-** What they asked for was a Special Exception for a transfer station which is in line with what the zoning ordinance allows.

**Gilda-** The City came forward asking for a Special Exception. This doesn't finalize the project, but this was one step that they had to do before moving forward.

**Kevin-** What the Board looks at are three (3) factors. General Welfare, Development Standards and the Ordinance Intent. What they proposed was a facility to transfer garbage inside. I understand your concerns, but looking up information today, there are three (3) Confined Feeding Operations closer to you than the Transfer Station.

**Steve-** Just who are you?

**Kevin-** I am the Director of the Area Plan Commission.

**Audience Member-** Will they be widening the roads?

**Kevin-** I can't answer that.

**Audience Member-** Will this be enclosed and if so what about the recyclables being outside?

**Kevin-** Yes, everything will be enclosed and has to be removed within 24 hours. As far as the recyclables, I don't think that they have had made a decision on that.

**Lois-** According to our minutes, IDEM requires a 9 foot fence and they will comply.

**Steve-** Lets go back to Mrs. Geise.

**Gilda-** Well the statute states that if you have a financial interest or you're biased, then you're disqualified. I don't think from a legal stand point that she falls under this.

**Steve-** With her daughter working for CGS, I don't think that it is right.

**Gilda-** This Board doesn't have any further action regarding this. I understand that you're frustrated. It's fine to go to a public meeting and give your views. But not all the outcomes are what we want. I encourage you to talk with the City and different individuals with your concerns.

**Steve-** Is there a way we can change your zoning decision?

**Gilda-** We are not allowed to. An appeal has to be made within 30 days of the Boards decision.

**Mike-** Some point and time, this will go through the local hearing board and then to the surveyor. I don't know if that is before or after IDEM.

**Steve-** Well all I can say, is what goes around, comes around!

**ADJOURN-** Lois Hatfield made a motion to adjourn, seconded by Larry Copley. All voted AYE.